

RESEARCH NOTES

Labour Market Adjustment under the Employment Contracts Act

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In order to measure the extent of adjustment since the Employment Contracts Act 1991 was introduced, the Department of Labour has contracted two surveys of labour market adjustment under the Act. The first survey was conducted in August-September 1992 by the Heylen Research Centre and Teesdale Meuli & Co. (the results of the survey were reported in the NZJIR (18(1): 94-112). Three particularly important outcomes were reported. First, enterprise bargaining and individual contracting had become far more widespread. Second, some enterprises took the opportunity to begin or speed up strategic industrial relations reforms, although others seemed to have simply removed union rights and cut labour costs in the short term. Finally, while the overall rate of labour market adjustment increased, adjustment was generally concentrated amongst larger enterprises. The second survey, conducted by Heylen in late 1993, indicates that the bulk of the structural changes occurred in the initial years under the Act, and now appear to be largely complete. Enterprise collective and individual contracts now predominate. The other adjustments that were indicated in the first survey are little changed, though there is evidence that the effects of adjustment are being felt differentially. There is evidence of greater acceptance of the Act, though employers and employees still feel that employers hold more power than employees.

Introduction

The stated objective of the Employment Contracts Act was to "promote an efficient labour market"¹. This was to be achieved by enhancing the adaptability of enterprises in their

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The description in this paper of the survey of labour market adjustment under the Employment Contracts Act is adapted from two previous publications prepared by Armitage and Dunbar, the full reports of both surveys: *A Survey of Labour Market Adjustment under the Employment Contracts 1991 (October 1992, November 1993)* and a summary of the surveys contained in CONTRACT, Special Edition, November 1992 and December 1993.

¹ Long title, Employment Contracts Act 1991.

competitive marketplaces. The Act sets out to do this by allowing employers and employees the choice of their form of representation and of negotiating different forms of employment contract, although it restricts choices in other areas such as the legality of certain industrial action. The introduction of the Act saw many of the information sources previously available to the Department of Labour for monitoring labour market trends disappear. To meet its ongoing monitoring requirements, the Department's Industrial Relations Service invited tenders for a national survey of labour market adjustment. The Heylen Research Centre and Teesdale Meuli & Co. were commissioned in May 1992 to conduct the first survey, and Heylen was again commissioned to conduct a second survey in 1993.

The objectives of the original research in 1992 were to survey and identify the rate of adjustment under the Employment Contracts Act. A particular focus was the application of the representation and negotiation choices underpinning the Act. In 1993 the focus was essentially the same, however the scope of the survey was substantially increased. Government enterprises and those who had changed jobs in the preceding year were included for the first time, and the number of employees interviewed was 2,000 rather than the 1,000 interviewed in the 1992 survey.

Quantitative or behavioural data was sought on bargaining structures, outcomes and representation taking into account the varying sizes of industries, enterprises and regions. *Qualitative or attitudinal* data was sought on bargaining issues and productivity. This led to data being collected under six broad headings: employment contract structures; the bargaining process; employment contract and bargaining outcomes; productivity changes; and attitudes and opinions of employees and employers (which included their views on remaining barriers to adjustment).

Methodology

The 1993 research involved two separate surveys of employees and enterprises (the survey of company directors that had been conducted in 1992 was not repeated). Small enterprises (fewer than four employees) were again excluded from the enterprise survey, as they had been in the 1992 survey. The decision to exclude small enterprises was made because: the survey questionnaire was considered to be less relevant to very small enterprises because the issues in industrial relations are different for very small enterprises; the costs involved in reaching small enterprises and the disproportionate cost in time for smaller enterprises in taking part in the survey; the relatively small number of employees who were excluded; and, the doubling of the size of the employee survey².

While the 1992 survey covered only 'private sector' enterprises, the 1993 survey included 'public sector' organisations. The reason for excluding 'public sector' enterprises in 1992

² There are approximately 100,000 people in trading enterprises with less than four employees in New Zealand, and this represents approximately nine percent of the total workforce.

was that at the time the survey was designed, that sector was still largely covered by agreements negotiated under the previous Labour Relations Act. As the objective of the survey was to assess adjustment under the Employment Contracts Act, it was considered appropriate at that time to exclude any clearly identifiable sector which had yet to formally experience industrial relations under the new Act. This was no longer the case at the time that the 1993 survey was designed.

A random sample of almost 4,000 enterprises (approximately 800 public and 3,200 private), stratified by industry, enterprise size and location, was generated by the Department of Statistics and a self-completion questionnaire mailed to them. A response rate of 51.3 percent (1995 enterprises, employing 320,000 employees)³ was achieved for this survey with larger employers more willing to take part. Enterprises that did respond accounted for 59 percent of employees covered in the original sample size.

Other than the small enterprises (fewer than four employees) mentioned above, all enterprises were eligible, including the government non-trading organisations excluded last year. Enterprises were defined as separate business or service entities operating in New Zealand such as a company, partnership, trust, estate, Incorporated Society, Producer Board, Local or Central Government Organisation, Voluntary Organisation or self-employed individual.

Enterprises included in the survey were divided into two groups: '**public sector**' includes all local and central government enterprises excluding trading enterprises. SOEs are therefore excluded, as are commercial activities of local government. Included are all the different government departments' administrative staff and all public sector health and education enterprises including hospitals and schools (this accounts for 8.5 percent of enterprises and 26 percent of employees in the population as a whole); '**private sector**' includes all private trading companies and the trading activities of central and local government (this includes SOEs). Also included are the private sector non-profit organisations such as churches and voluntary associations. The private sector accounts for 91.5 percent of Enterprises and 74 percent of employees in the population as a whole. The employees were randomly selected from the telephone directory. A 62 percent response rate was obtained to gain 2,000 responses, with employee demographics such as industry, occupation, gender etc. similar to those recorded by the Department of Statistics census data. The larger sample size this year has also provided for and allowed comparisons between male and female employees and between employees of public and private sector organisations.

The addition of public sector organisations to the enterprise survey, employees that have changed jobs since 15 May 1991 and a sample of 2,000 rather than 1,000 employees to the employee survey means that the 1993 survey is more comprehensive than the 1992 survey. The larger employee sample size has allowed for a comparison of the effects of the

³ 3,995 questionnaires were mailed out, 103 were removed because there were combined responses, enterprise "deaths" and "returned gone, no address". 2,011 questionnaires were returned, 16 were unusable, leaving a balance of 1,995 and a net response rate of 51.3 percent.

Employment Contracts Act on men and women for the first time. These changes mean that overall impressions of what is happening in the labour market can be more reliably drawn from the second survey.

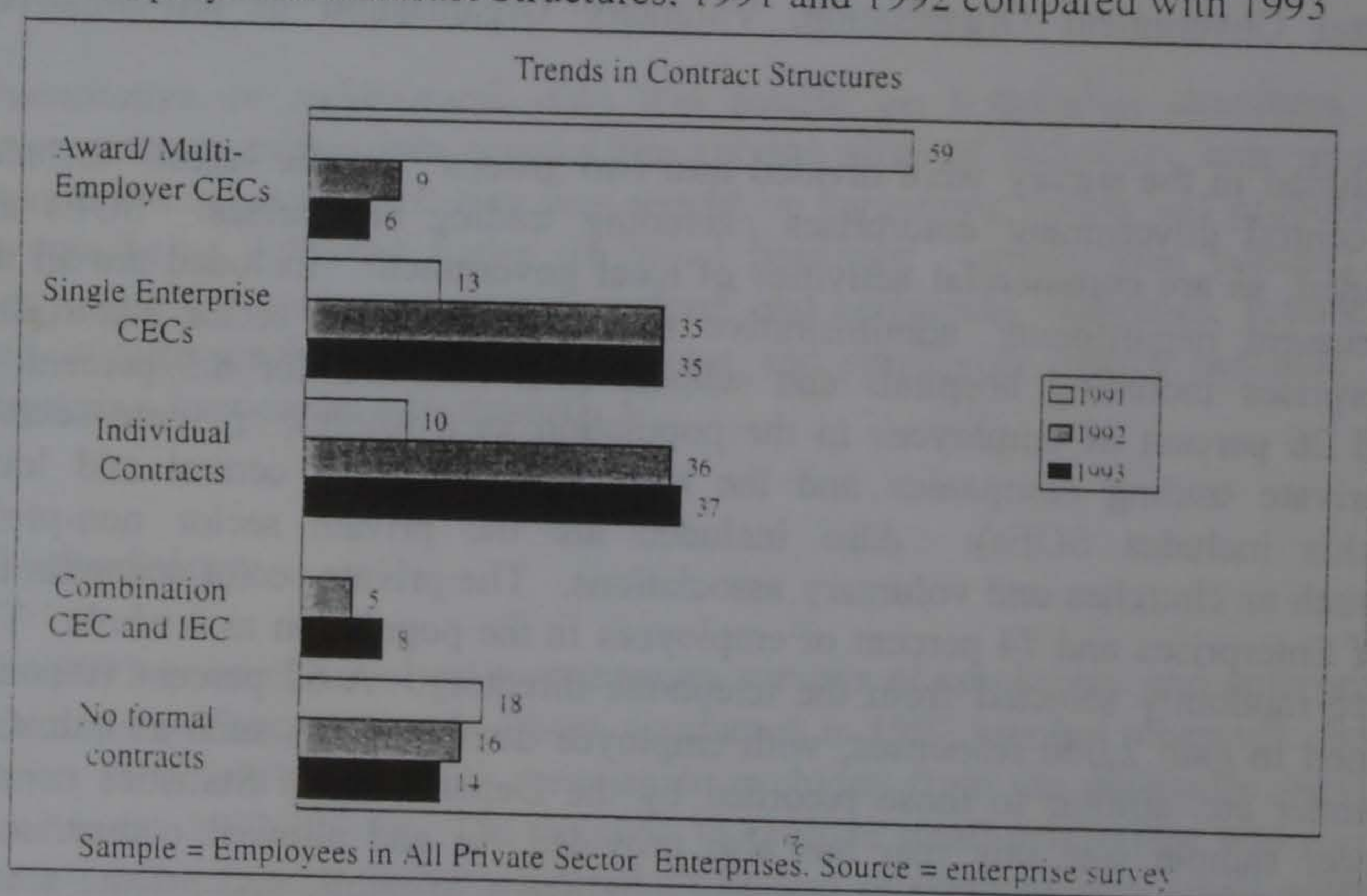
The results have been weighted to give representative results for all enterprises and employees in different sub-groups and for totals⁴.

FINDINGS

Contract structures

The enterprise and employee surveys asked respondents to record the nature of their employment contract in May 1991 and August 1993. Bargaining structures have undergone a significant decentralisation. The results were similar to the 1992 survey.

Employment Contract Structures, 1991 and 1992 compared with 1993



⁴ The selection of survey respondents in the employees survey resulted in a close match between the Department of Statistics figures for the composition and make-up of the workforce represented in the survey results, there were some differences however: youth workers (15-19 years) were estimated to be 3.6 percent of the survey sample while the Department's estimate is that they are 8.2 percent of the workforce; wholesale/retail, trade restaurants and hotels were 18.2 percent and 20.9 percent respectively, while business and financial services were 11 percent and 9.6 percent respectively; more than 30 hours per week (full-time employees) 80.3 percent and 78.3 percent respectively. This may indicate that the survey tended to reach a slightly less vulnerable segment of the labour market.

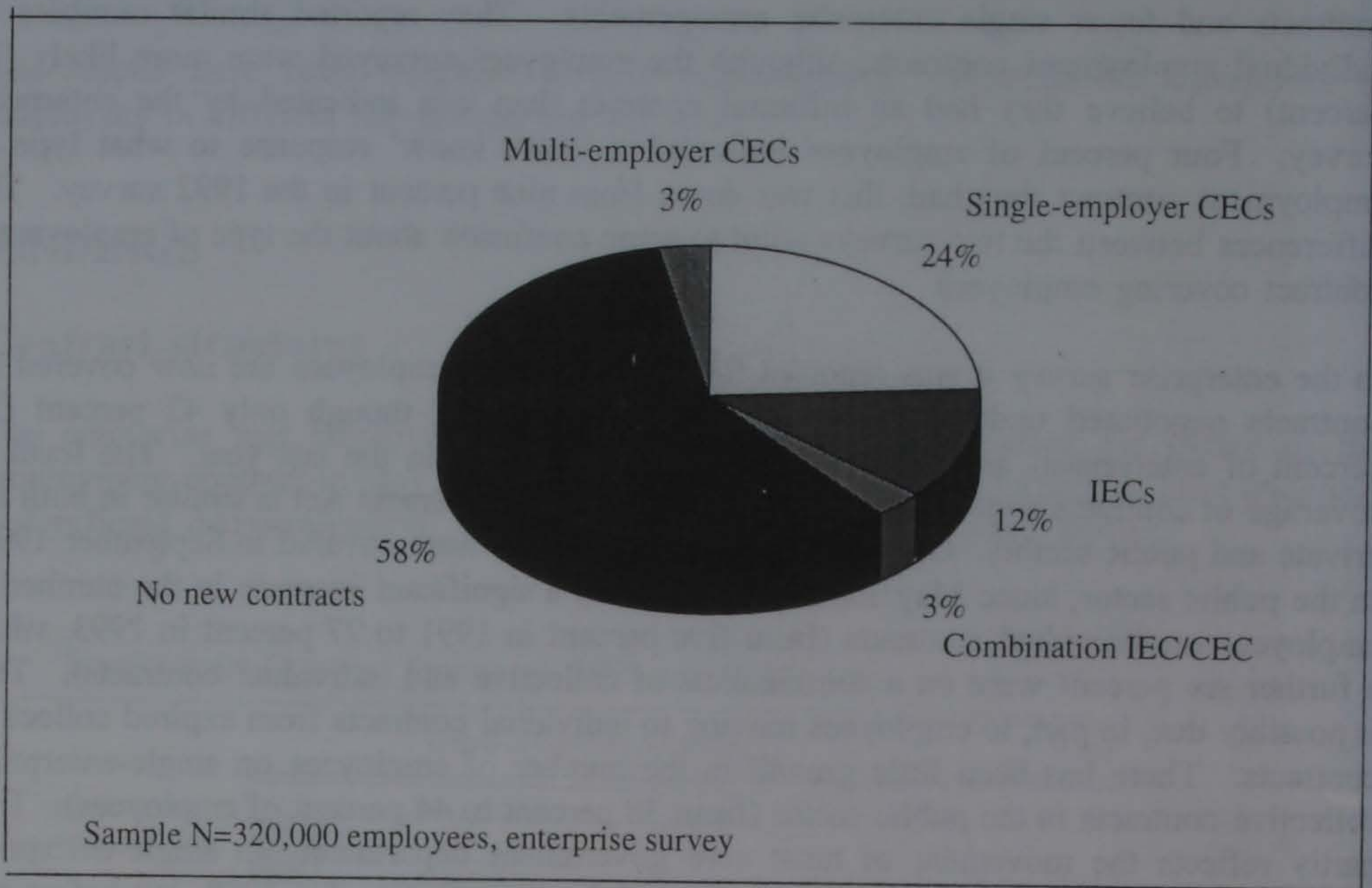
⁵ Note that the information for 1991 includes all enterprises, both public and private, while the 1992-1993 information is comparable private sector data from the Heylen surveys. The 1991 information should therefore be viewed as indicative only of the changes from 1991 to 1992.

Less detail was collected from individual employees as they were not expected to be as familiar with the terminology associated with employment contracts. Compared to the results of the enterprise survey, employees reported more multi-employer employment contracts and fewer single enterprise arrangements. They reported similar numbers of individual employment contracts, although the employees surveyed were more likely (23 percent) to believe they had an informal contract than was indicated by the enterprise survey. Four percent of employees indicated a 'don't know' response to what type of employment contract they had, this was down from nine percent in the 1992 survey. The differences between the two surveys point to some confusion about the type of employment contract covering employees.

In the enterprise survey it was reported that 75 percent of employees are now covered by contracts negotiated under the Employment Contracts Act, though only 42 percent (34 percent of enterprises) are covered by contracts negotiated in the last year. The level of coverage of contracts negotiated under the Employment Contracts Act is similar in both the private and public sectors. Only 58 percent of employees were covered in September 1992. In the public sector, since May 1991 there has been a significant increase in the number of employees on individual contracts (from five percent in 1991 to 27 percent in 1993, while a further six percent were on a combination of collective and individual contracts). This is possibly due, in part, to employees moving to individual contracts from expired collective contracts. There has been little growth in the number of employees on single-enterprise collective contracts in the public sector (from 38 percent to 44 percent of employees). This partly reflects the movement of most core government departments to single-enterprise agreements both before and after the passing of the State Sector Act 1988, but before the Employment Contracts Act was introduced. It also reflects the restructuring of Departments into Ministries and business units.

There are twice as many employees on new collective employment contracts compared with new individual employment contracts (63 percent of employees compared with 30 percent). Overall, the numbers on individual and collective employment contracts are approximately the same as in 1992. Individual employment contracts include informal contracts (that is those that are not formally negotiated, but exist in law), contracts negotiated individually, and contracts based on expired collective contracts or old awards and agreements. Fifty-nine percent of respondents to the employee survey felt free to choose between an individual and a collective employment contract. Women, however, were less likely to indicate that they had a choice (55 percent). The reason most often given by all employees for a lack of choice was that no choice was offered (65 percent). New contract settlements are illustrated in the following graph:

Overview of new contracts since September 1992



Bargaining process

Larger employers remain more likely to negotiate new employment contracts. In the enterprise survey, whereas 84 percent of employees in enterprises employing more than 100 are covered by contracts negotiated under the Employment Contracts Act, only 37 percent of employees employed in enterprises employing between four and nine employees are covered by Employment Contracts Act contracts. In both the employee and enterprise surveys there were 58 percent of employees who had not had a new contract over that period. The employee survey showed that public sector employees were more likely to have negotiated new contracts than private sector employees (88 percent compared with 81 percent).

The employee survey found that 83 percent of new contracts were negotiated; 87 percent of collective employment contracts and 76 percent of individual contracts. Men (86 percent) were more likely than women (79 percent) to hold negotiations for a contract (collective or individual). These results may indicate cause for concern over the comparative position of women in the negotiation of contracts, or in relation to the position

that they hold in the labour market⁶.

As the 1992 survey indicated that many contracts were to run for more than one year, the pace of contract settlement could be expected to slow down. In the private sector, 45 percent of employees covered by new contracts in the 1993 survey is down from 57 percent in the 1992 survey.

Representation

While the involvement of trade unions in negotiations has reduced since May 1991, within the private sector, trade unions represented a higher proportion of employees in negotiations for collective contracts in the 1992-93 period than was the case in the 1991-92 period (up from 61 percent to 72 percent). The overall reduction in the role of trade unions since the Act's introduction partly reflects the general replacement of national industry or occupationally based bargaining by enterprise based arrangements within the private sector. In the public sector, trade unions represented 90 percent of employees in negotiations for collective contracts.

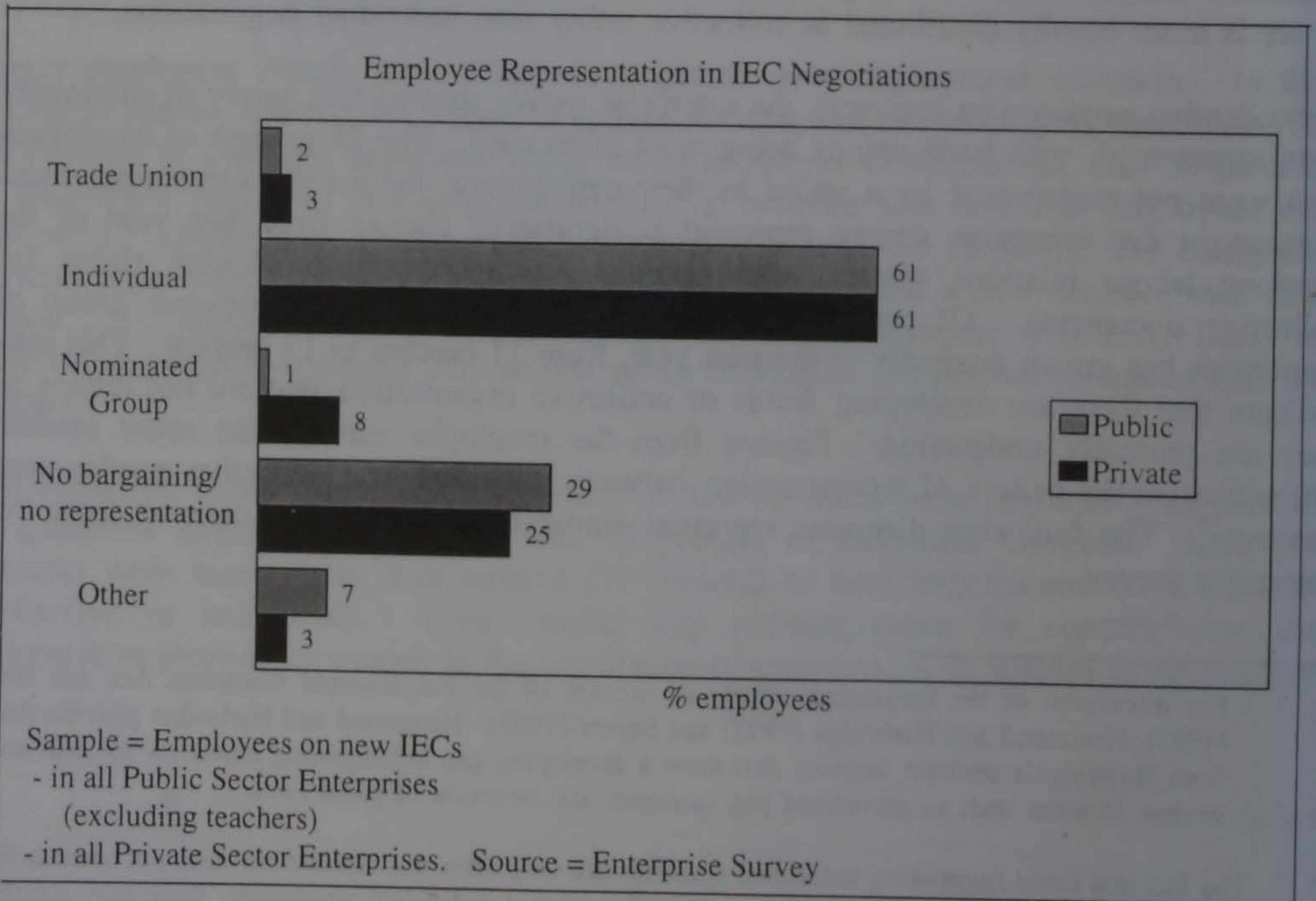
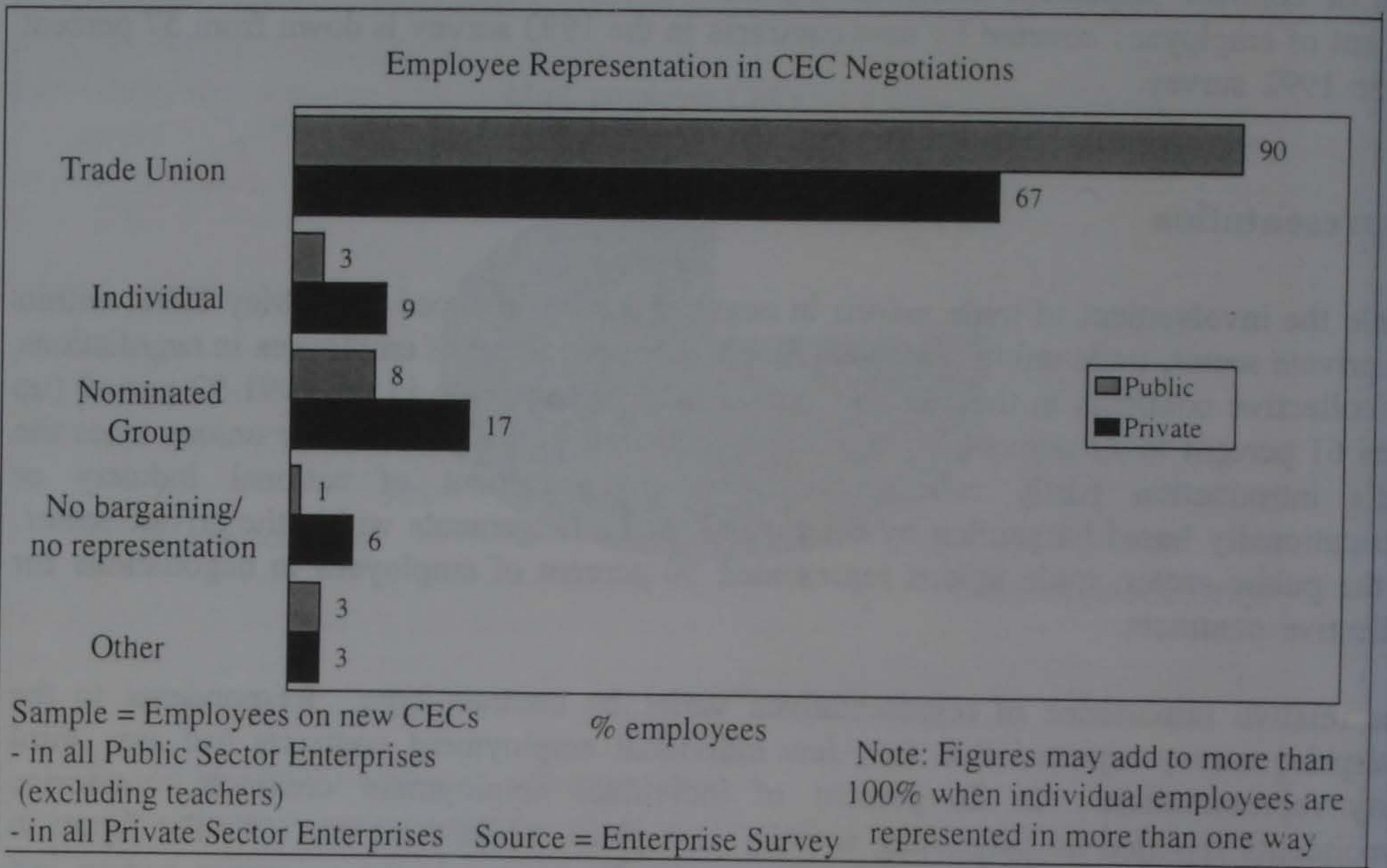
The relative importance of representatives varies by contract type. Respondents to the enterprise survey reported that very few individual employment contracts had any third party representation. In 26 percent of individual employment contracts, enterprise respondents reported no bargaining actually took place, while there was a similar figure in the employee survey. This result compares with 29 percent in the enterprise survey last year. In relation to collective employment contracts only six percent of private sector collective contracts were not negotiated. This is possibly an indication that bargaining power is more equally distributed in collective rather than individual negotiations.

For collective employment contracts, the enterprise survey showed that nearly all employees were represented, with trade unions being most often used. The 28 percent of employees who were not represented by a union in their negotiations for a collective employment contract in the enterprise survey represent a significant change from last year or the previous labour relations system where unions had monopoly bargaining rights for collective documents. Of particular interest is that the use of a nominated group of employees has grown markedly in the past year, from 11 percent to 17 percent. This may indicate that there are developing forms of collective organisation that are not unions as they are presently understood. Figures from the employee survey also show marked differences in the pattern of representation between individual and collective employment contracts⁷. The following diagrams represent employee representation patterns from the enterprise survey.

⁶ For discussion of the bargaining effects on women of the Employment Contracts Act, see Beri (1992), Hammond and Harbridge (1993) and Sayers (1992). Hammond and Harbridge provide data from Harbridge's contract database that show a developing gap in bargaining outcomes for men and women in areas such as annualised pay increases and retention of penal rates.

⁷ The fact that those negotiating individual contracts are very often not represented does not necessarily equate to an anti-employee representative attitude amongst individual employees, there may equally be supply issues such as cost and availability of representation flowing from employee organisations that leads to the result shown in the chart below.

Employee representation



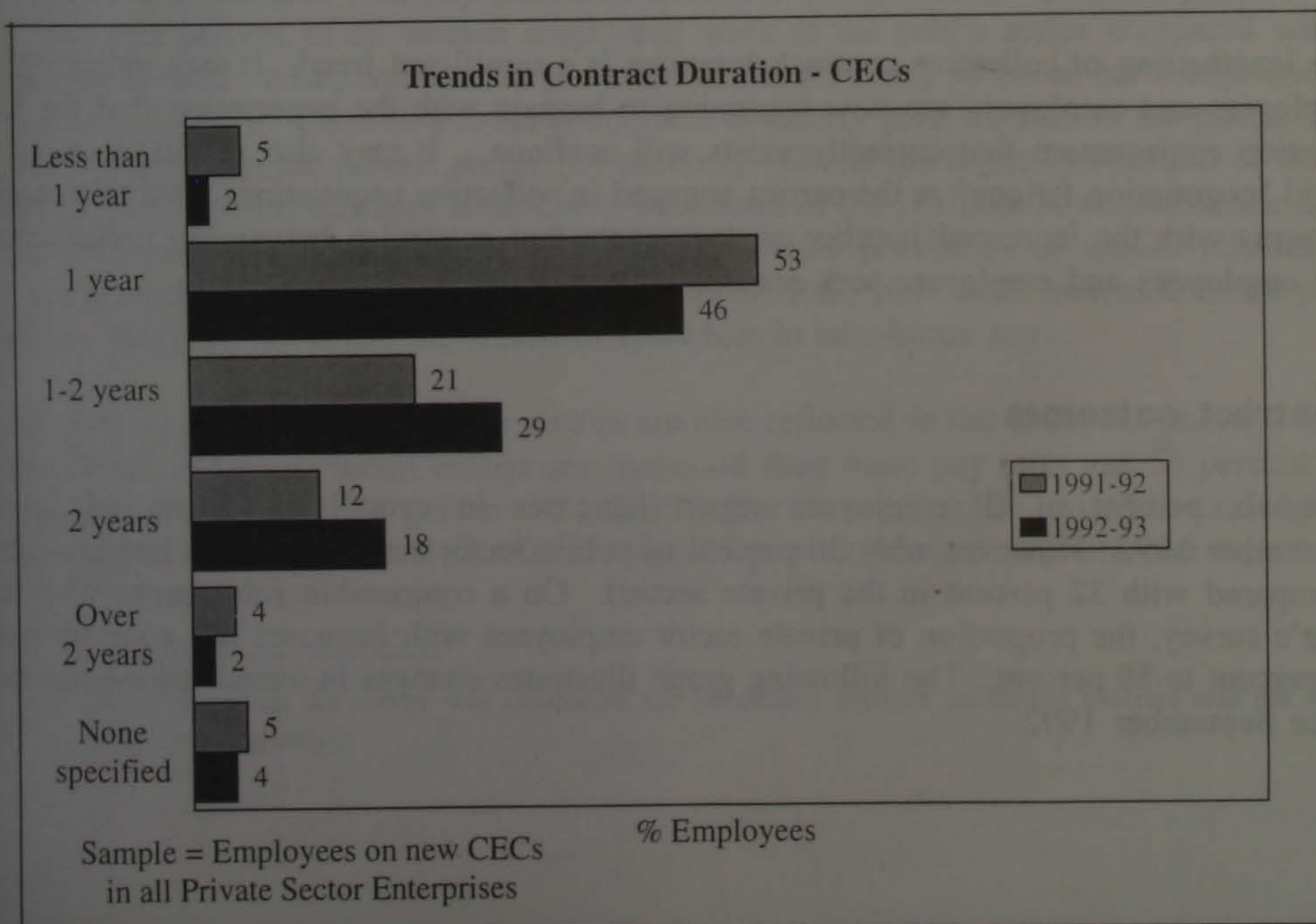
Eighty-five percent of employees felt free to choose their representative. Eighty-seven percent of employees indicated that they were reasonably or very satisfied with their representation in negotiations, with those representing themselves less likely to indicate dissatisfaction with their (own) representation.

Off-site management is still a significant form of employer representation, particularly for collective employment contract negotiations. Thirty-six percent of private sector employees or their representatives negotiated with off-site management (down from 48 percent last year). This may be because enterprise bargaining is now firmly established and increasingly decentralised. There is, however, a trend reflecting a change to employer representation patterns away from teams of off and on-site management to either off-site or on-site management negotiators. This is shown in a trend to less on-site management involvement in individual employment contracts. This fits a scenario where a procedure is established in some enterprises for nominated groups of employees representing individuals in negotiations with off-site management. This may support the view that there are developing collective organisations that are not unions.

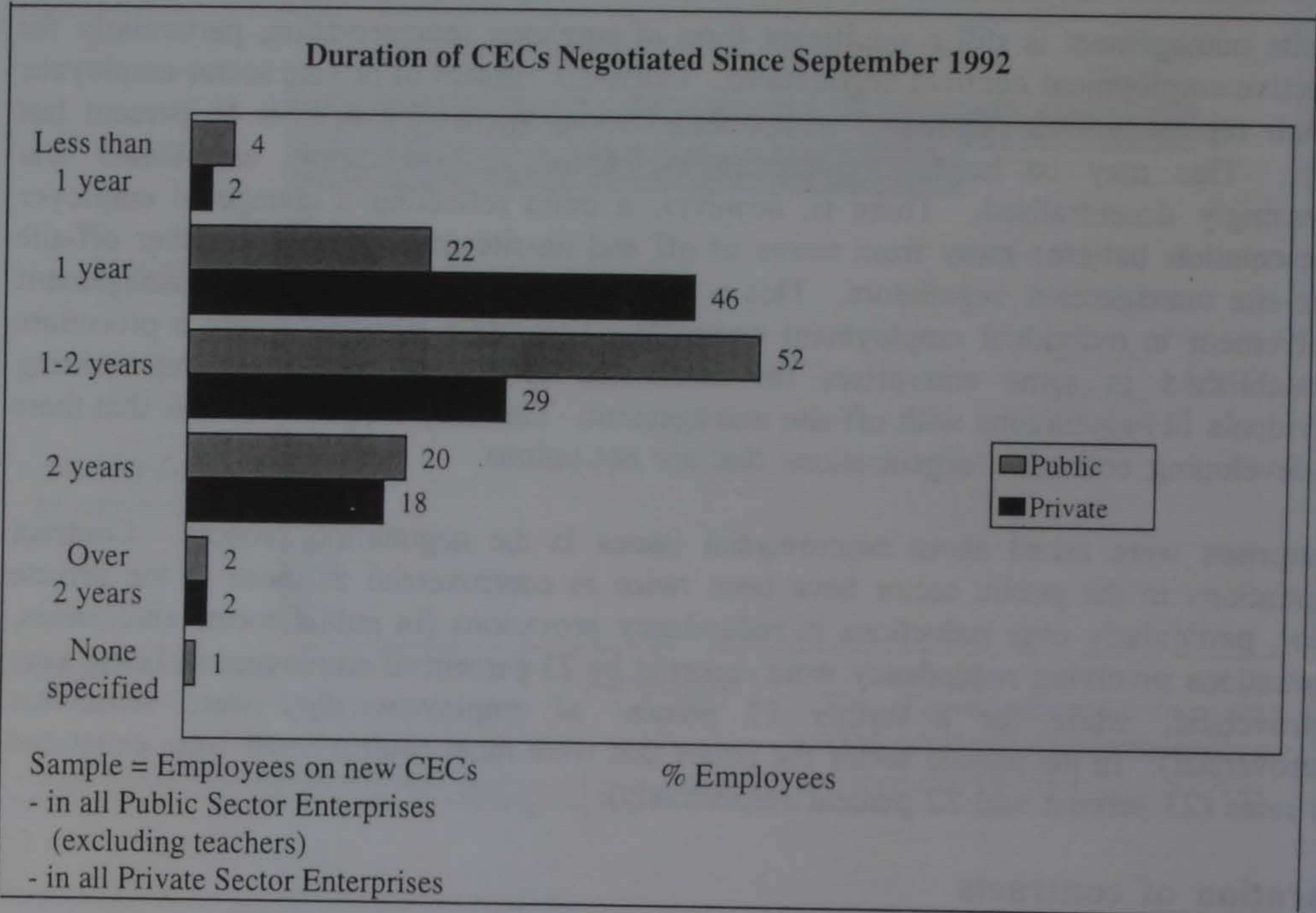
Enterprises were asked about controversial issues in the negotiation process. Contract negotiations in the public sector have been twice as controversial as those in the private sector, particularly over reductions in redundancy provisions (in public sector enterprises, negotiations involving redundancy were reported by 23 percent of employees as being very controversial, while for a further 17 percent of employees they were somewhat controversial). In the private sector the issues that were most controversial were penal and pay rates (23 percent and 22 percent respectively).

Duration of contracts

The duration of collective contracts is growing longer, with longer term contracts in the public sector than in the private sector. The following chart shows the changes that have occurred over the year in the private sector, the length of contracts is increasing:



The following chart shows the differences between the public and private sectors:

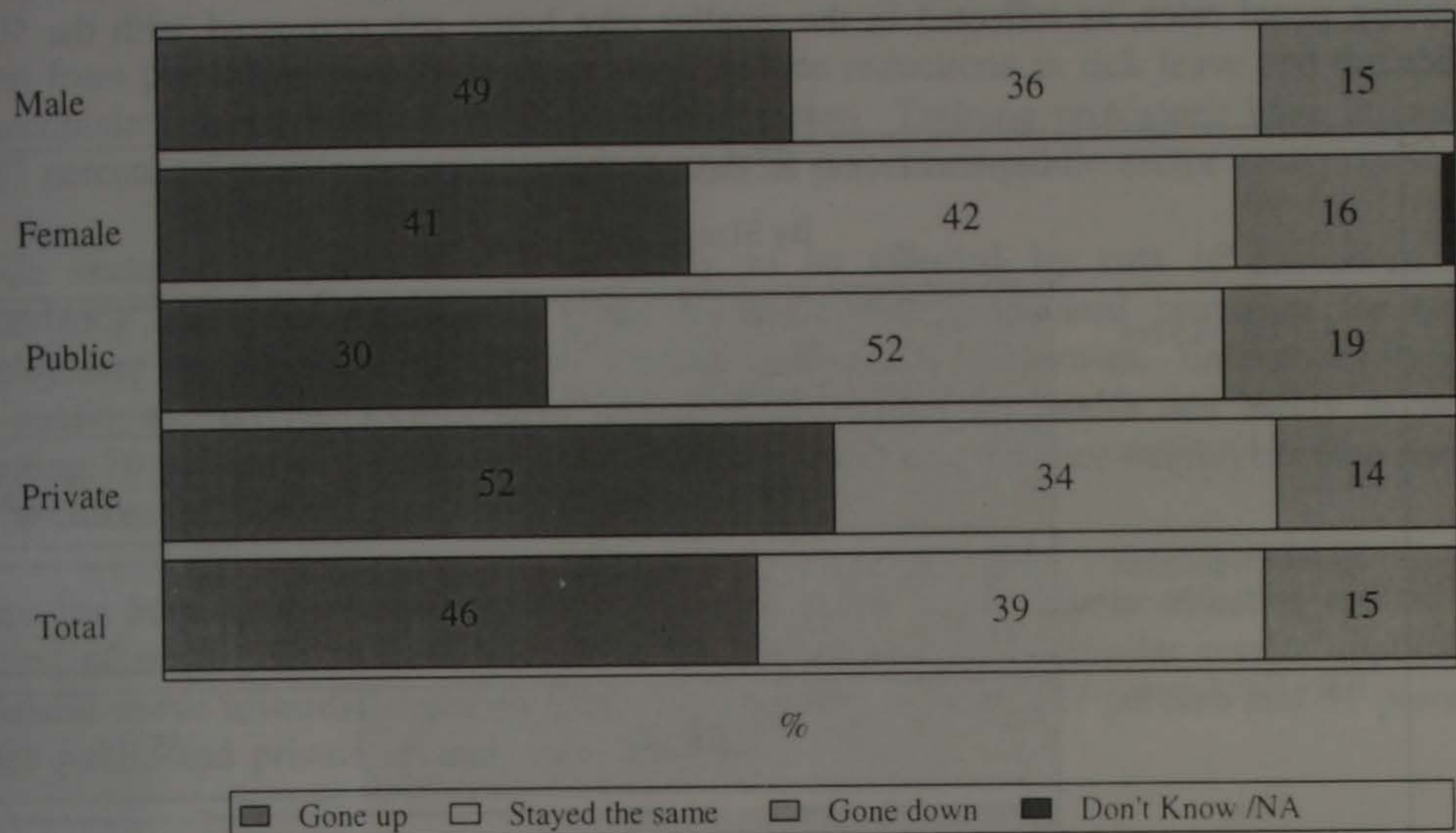


The lengthening of collective contract durations is a significant trend. It may indicate that employers and employees are now beginning to bargain with the expectation that the low inflation environment that currently exists will continue. It may also reflect attempts to avoid "negotiation fatigue" as the parties engaged in collective negotiations attempt to come to terms with the increased number of documents that enterprise bargaining necessitates, and employees and employers seek security of conditions.

Contract outcomes

Forty-six percent of all employees report increases in overall take-home pay since September 1992. However, only 30 percent of public sector employees have had increases (compared with 52 percent in the private sector). On a comparable sub-sample with last year's survey, the proportion of private sector employees with increases has gone up from 42 percent to 59 percent. The following graph illustrates changes in overall take-home pay since September 1992.

Changes in Overall Take Home Pay Since September 1992



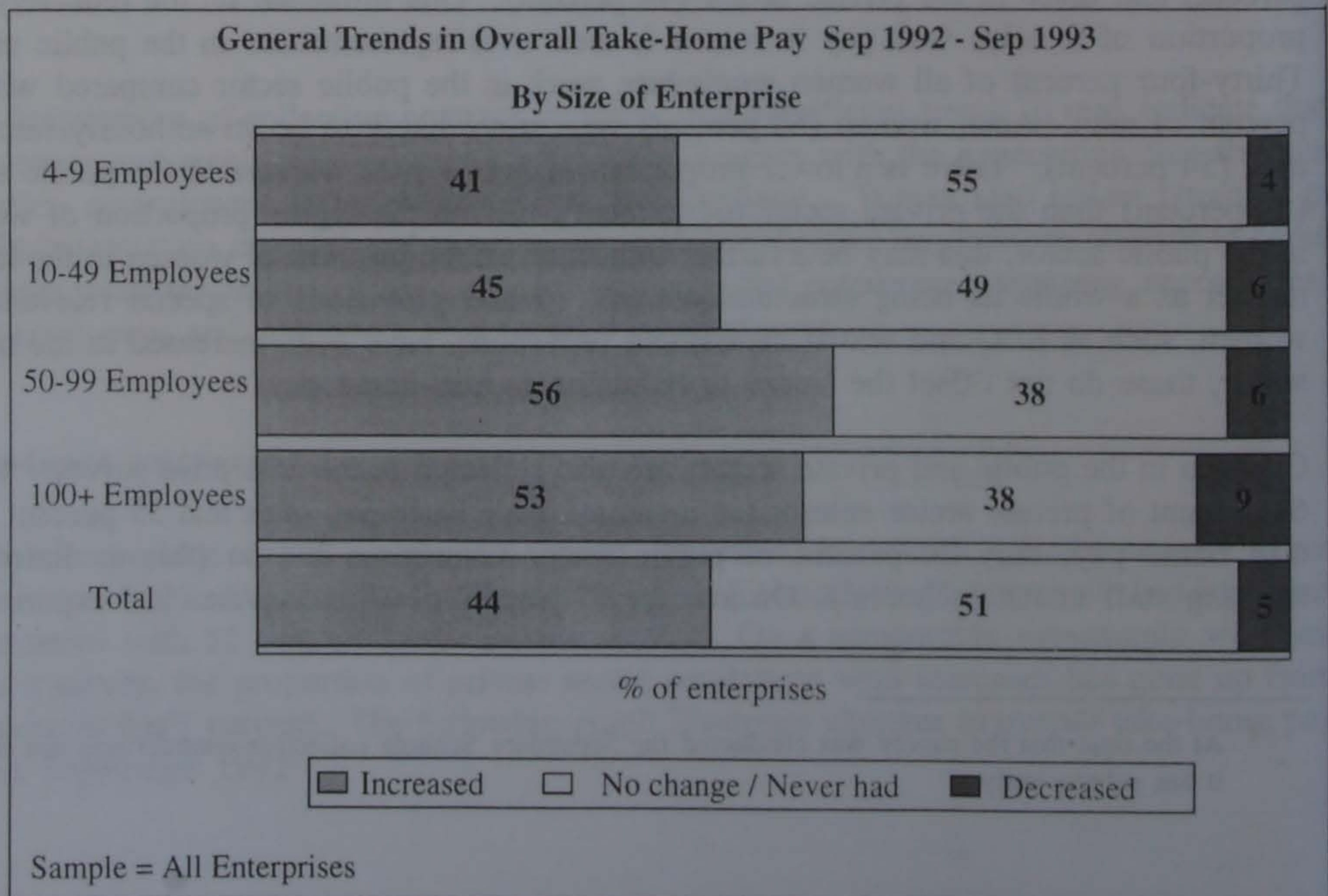
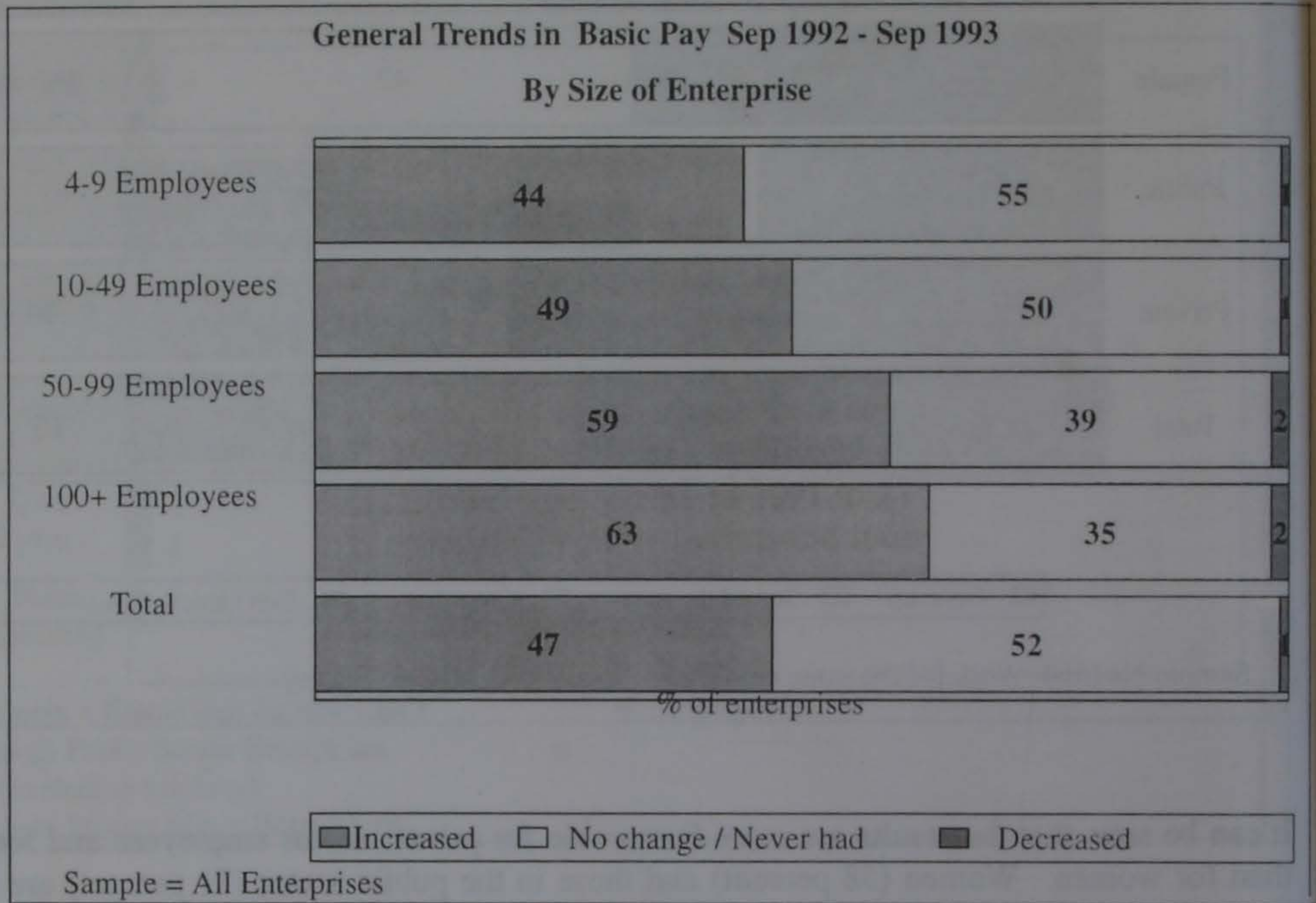
Sample N=1564 Work for the same employer. Source = Employee Survey

It can be seen that the results are more favourable for private sector employees and for men than for women. Women (58 percent) and those in the public sector (71 percent) are more likely to have had their take home pay stay the same or have it reduced than men (51 percent) and those in the private sector (48 percent). One influence on the relatively low proportion of females with pay increases is their over-representation in the public sector. Thirty-four percent of all women employees work in the public sector compared with 19 percent of men. Also, women (68 percent) were more likely to be on an hourly rate than men (54 percent). There is a lower proportion of hourly paid workers in the public sector (51 percent) than the private sector (64 percent). Given the higher proportion of women in the public sector, this may be a further indication of the position of women in the labour market as a whole as being structurally weak. While provisions of special relevance to women, such as EEO and sexual harassment provisions, have been increased in the public sector, these do not offset the freeze or reduction in take-home pay.

Changes in the public and private sectors are also reflected in the enterprise survey. While 68 percent of private sector enterprises increased their basic pay rates and 55 percent their take home pay, only 24 percent of public sector enterprises did so (this excluded the teaching staff in state schools⁸). On average 47 percent of all enterprises had experienced

⁸ At the time that the survey was conducted the Secondary Schools collective contract was not settled, it has subsequently.

an increase in take home pay. Organisations with more than 50 employees were more likely to have had increases in basic and take home pay (as shown in the charts below), though the largest organisations (with more than 100 employees) have been more active in reducing penal rates, as reflected in the smaller take home pay compared with the 50-99 cohort.



There was a marked increase in the use of employee performance and skills acquisition as criteria for the setting of wages and salaries. In the private sector, the profitability of the enterprise was of increased significance for 43 percent of those enterprises surveyed.

Apart from pay rates, changes in other areas include reductions in sick leave and the ability to accumulate leave, particularly in the public sector. Training provisions have increased in 52 percent of private sector enterprises and 39 percent of public sector enterprises.

Public sector employees were more likely to be affected by cuts in provisions for redundancy and superannuation⁹. They have, however, increased provision for equal employment opportunities and for the prevention of sexual harassment. Enterprises in both the public and private sectors have increased provisions for health and safety at work affecting 70 percent of public sector and 61 percent of private sector employees (the nature of the increased provision is not known).

There has been an increase in provisions for the use of casual labour affecting around 27 percent of employees in both the public and private sectors¹⁰. Similar results applied to a general move towards increased flexibility in hours of work (27 percent and 31 percent in the public and private sectors respectively).

Although women appear to fare less well (such as being less likely to have had a rise in take home pay) in relation to the more tangible and immediate outcomes of negotiations, they nevertheless to express satisfaction with their terms and conditions of employment. Seventy-four percent of women (and 72 percent of men) were satisfied or very satisfied with their terms and conditions.

Employees in the public sector are less likely than those in the private sector to be satisfied or very satisfied with their terms and conditions (65 percent compared with 76 percent). The groups that expressed the greatest dissatisfaction were in large enterprises (100+ employees), professional occupations, plant and machine operators and assemblers, and the 40-59 year age group. Levels of satisfaction were similar to last year.

The grand-parenting¹¹ of provisions affects 26 percent of employee's workplaces, with the practice much more common in the public sector (37 percent) compared to the private sector (23 percent). This could have significant long-term effects on terms and conditions of employment, in that there are could develop a "bulge" of workers who have terms and conditions that are better than those who are employed after them, with this differential

⁹ Reported changes to superannuation arrangements may, however, have resulted as much or more from wider legislative changes to the Government Superannuation Fund than from bargained changes to negotiated conditions.

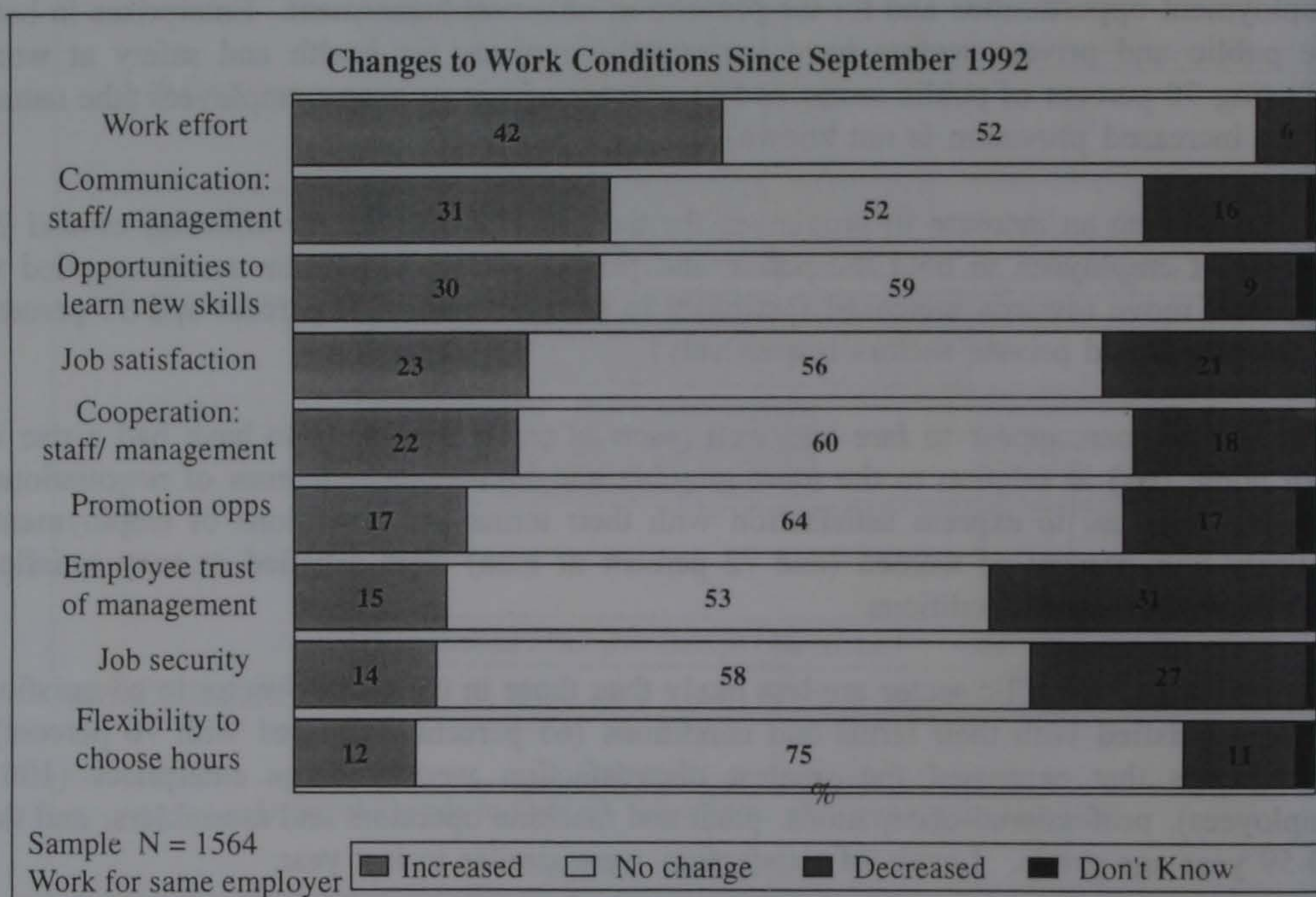
¹⁰ There is a 2 percent margin of error.

¹¹ The practice of preserving conditions for existing employees but changing/reducing them for new employees.

continuing into the future.

Productivity¹²

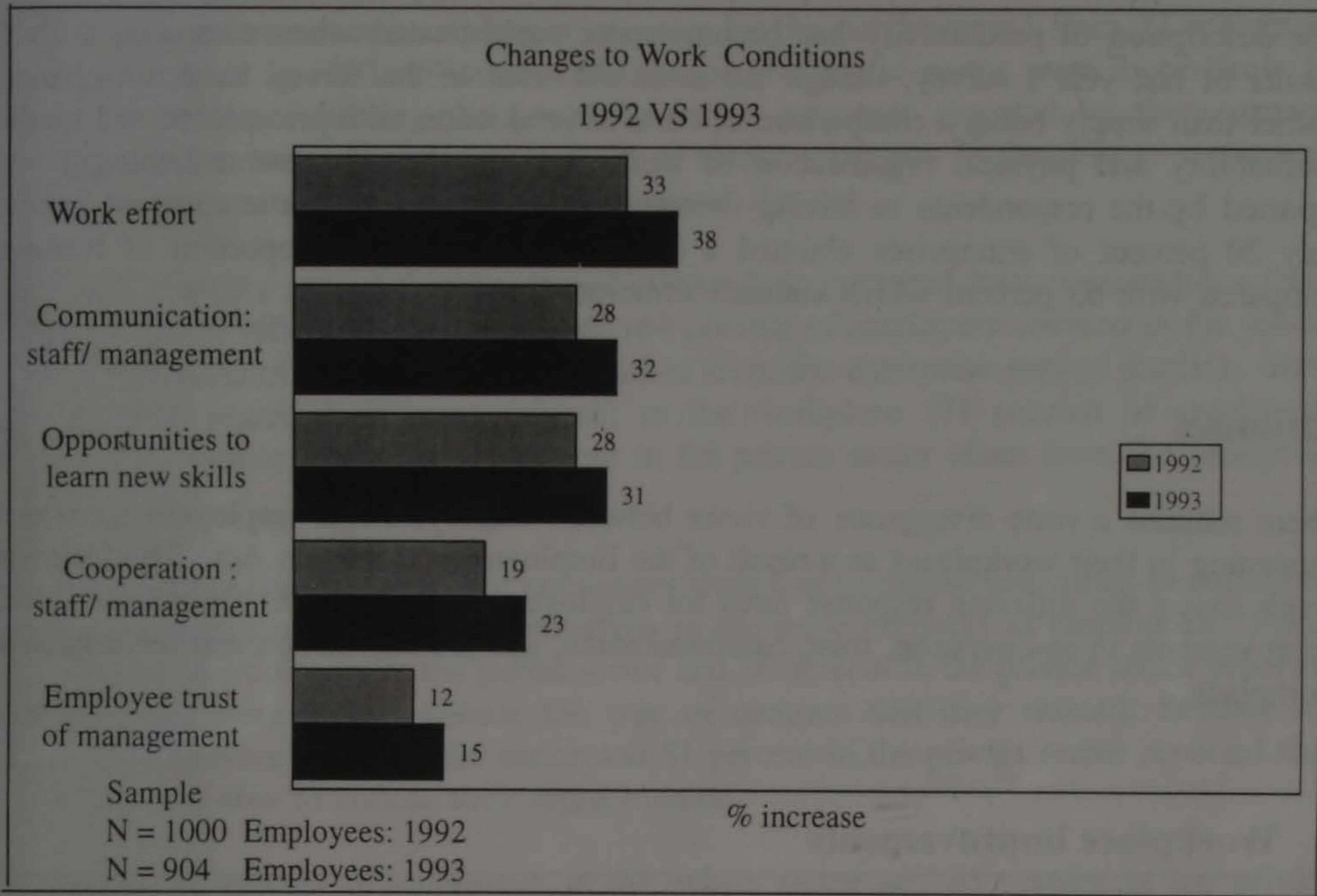
The following chart is drawn from the employee survey (employees who have had the same employer for more than a year).



The reported rise in work effort (42 percent of employees) is not matched by a rise in trust in management. It may be, however, that employees and employers are at present talking past each other, as employees acknowledge there are increased efforts to engage in communication. The fact that 31 percent of employees report that there are opportunities to learn new skills may indicate potentially positive changes for employees in the future.

¹² The measurement of productivity is an area fraught with difficulties. The questions on productivity in the survey relate to the respondents' perceptions of productivity changes and influences, and are not necessarily based on some externally defined standard measure of productivity.

The public sector compares unfavourably with the private sector in the employees' survey in relation to all factors charted in aggregate above. For instance, 41 percent of public sector employees thought job security was reduced over the year compared with 21 percent in the private sector¹³. In a comparison with the 1992 survey, the private sector shows positive change, as shown in the chart below.



Improvements in productivity reported in the enterprise survey affected similar numbers of employees in both private and public sectors (80 percent). There is, however, a much stronger concentration of productivity improvements in larger enterprises in the public sector resulting from the large number of schools who felt there had been no change in productivity or were unable to answer this question.

These results for the private sector in the enterprise survey are very close to those reported in 1992, indicating that productivity is continuing to increase for a similar proportion of enterprises. This year the Employment Contracts Act was credited with being the most important influence on increased productivity by 19 percent of enterprises covering 35 percent of employees, this compares with 12 percent and 24 percent respectively in last year's survey.

¹³ Possibly a reflection of the controversial nature of redundancy in collective contract negotiations in the Public sector.

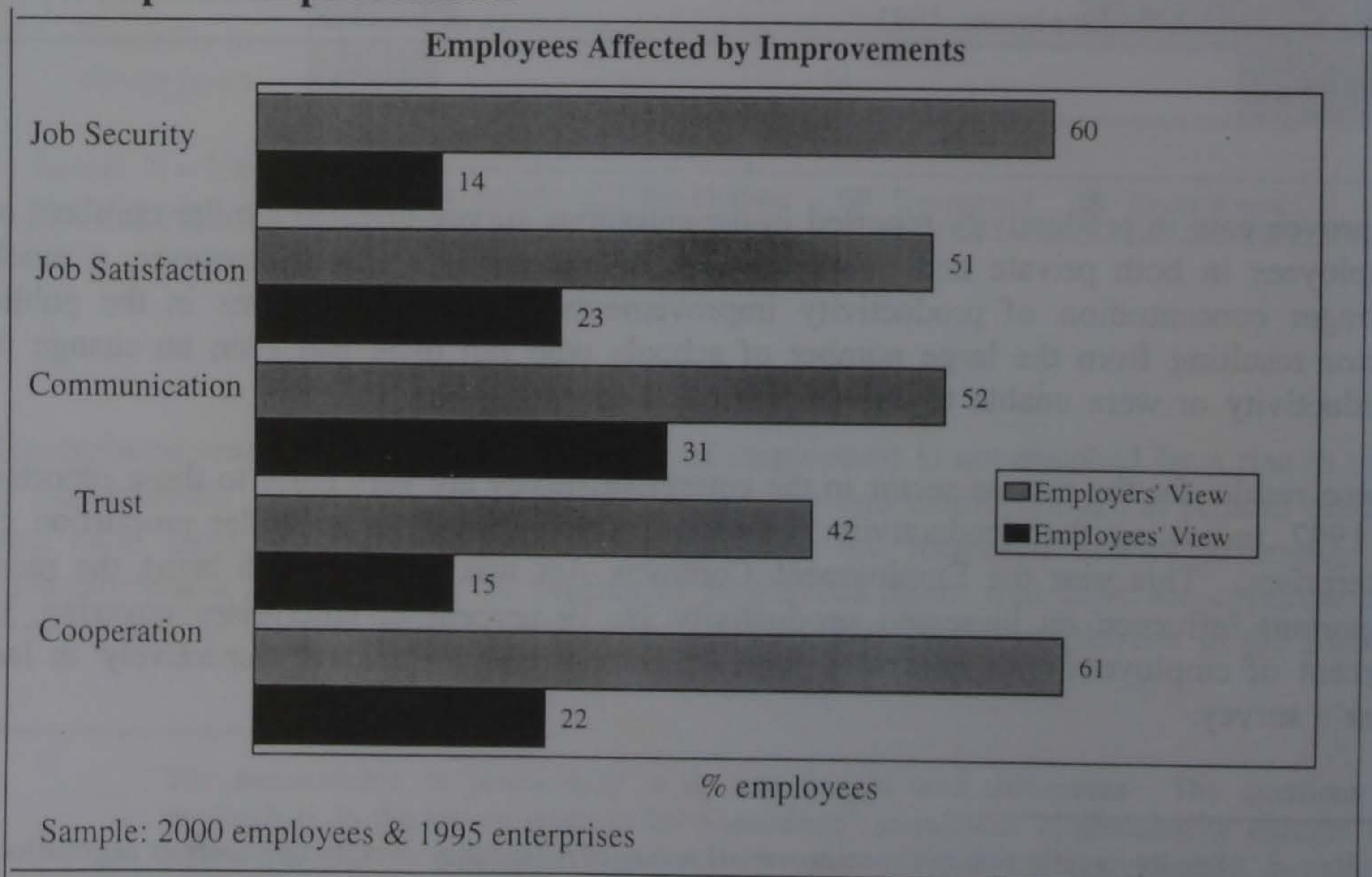
The majority of private sector enterprises report increases in aspects of quality management. There is an accelerating trend in the private sector, to reporting of increases in measures such as responsiveness to customer needs (69 percent compared with 54 percent in the 1992 survey), adaptability (66 percent compared with 57 percent), skills (58 percent compared with 43 percent) and quality (59 percent compared with 45 percent). Quality management programmes tended to be found in larger organisations in the public and private sectors.

The description of productivity has become more sophisticated when compared with the results of last year's survey, though the measures used in the survey have not changed. Rather than simply being a comparison of costs of production with price, increased quality, profitability and physical organisation of work (such as through new technology) were reported by the respondents as having increased over the year. This is apparent because only 20 percent of enterprises claimed a decrease in costs as a proportion of turnover, compared with 63 percent which claimed some productivity increase.

Attitudes

There remains a wide divergence of views between employers and employees on what is happening in their workplaces as a result of the Employment Contracts Act. The following graph shows the differing response rates for employers and employees when asked about improvements in co-operation, trust, communication, and job satisfaction and security in the workplace.

Workplace improvements



Opinions

Employees were split between those that generally approved of the Employment Contracts Act and those that didn't (36 percent to 43 percent, 16 percent were neutral and 6 percent did not know). private sector employees' support for the Act increased from 32 percent in 1992 to 40 percent in 1993. Women and those in the public sector were more likely to disapprove, perhaps reflecting the generally worse outcomes reported by these groups reflected in this survey. Eighty-five percent of senior managers in the private sector and 69 percent in the public sector generally supported the Act.

Employers generally agreed that the Award system had prevented their organisations from making necessary efficiency improvements (64 percent of employers covered in the public sector and 71 percent in the private sector taken from the enterprise survey results). New contracts were regarded as more relevant to the workplace (71 percent of employees covered in the public sector and 79 percent in the private sector taken from the enterprise survey results).

Employers did not consider that their employees were free to choose individual or collective employment contracts or their representatives in the same numbers as employees. Fifty-seven percent of employers in the public sector and 36 percent in the private sector reported that employees were free to choose the type of contract that they wanted. Seventy-six percent of employers in the public sector and 51 percent in the private sector reported that employees were free to choose their representation.

By contrast, 86 percent of employees in the public sector and 85 percent in the private sector felt that they were free to choose their representative. Sixty-six percent of employees in the public sector and 56 percent in the private sector felt that they were free to choose between individual and collective contracts.

There seems to have been a coincidence of choice between employers and employees in these matters, given the perceptions of the two groups about the choices that could be made, so that the potential for conflict reflected in these different perceptions has not been realised.

The percentage of employers who believed that employers were in the stronger bargaining position under the Employment Contracts Act has declined from 60 percent to 51 percent, while the percentage of employees who think this has increased, from 56 percent to 64 percent. This may indicate a lag in the perceptions of employees as to the state of the labour market, compared with employers who may be anticipating skill shortages and buoyant product markets. Or it may reflect the situation that those employees and employers found themselves in.

Of employees, 67 percent supported (without prompting) a range of changes to the Employment Contracts Act, while only 15 percent suggested that the Act be abolished. The changes that employees suggested were evenly spread: more guidelines for negotiation;

changes to ensure that employers act more fairly; more power given to employees or a reduction in employer power; and, more provision for negotiation and agreement.

Employers (particularly smaller employers) supported suggestions that more guidelines on national employment standards be provided. Significant numbers also wanted more fairness from other employers, more encouragement of agreement, guidelines for negotiation and wage levels and more information about employee rights.

Enterprise types

As with last year's survey, groups of enterprises could be identified and distinguished by the changes they had or had not made. This year, five groups were apparent.

A large group of "Inactive" enterprises had made relatively few changes to terms and conditions, productivity or training. These enterprises were the least likely to have increased training, focused on quality, attempted workplace reform, reported increased work effort or increased take-home pay. They were also the least likely to report that new employment contracts were any more relevant to the workplace than the old awards. This group represents 51 percent of enterprises employing 48 percent of employees in the enterprise survey. In the 1992 survey "traditionalists" made up 41 percent of enterprises and 33 percent of employees.

A small group of "Cutters" had made widespread cuts to terms and conditions of employment over the last year. This was the smallest of the five groups (four percent of employees and enterprises). The retail and construction industry were over-represented amongst this group.

"Reformists" had focused on reducing trade union rights, increased use of individual employment contracts, and increased pay. They were more likely to report that their employees supported the changes they had made, although the ability of their employees to choose between individual and collective employment contracts was lower. The group accounted for 11 percent of enterprises and employees, and was over-represented in the clothing, furniture manufacturing, printing and retailing industries.

In the 1992 survey "Revisionists" covered the "Cutters" and "Reformists" and made up 22 percent of enterprises and 29 percent of employees.

One quarter of enterprises had increased training provisions. "Trainers" were not likely to have reduced penal rates or trade union rights. They reported that their skill requirements had increased, as had take-home pay. Job security was rated higher than average. This was the second largest group (24 percent of enterprises and 29 percent of employees). Primary processing manufacturing industries were common amongst this group. The 1992 survey category closest to this one was "Progressives", which made up 19 percent of enterprises and 20 percent of employees.

Finally, "Savers" had reduced costs as a percentage of turnover, although they had not cut terms and conditions or trade union rights or increased take-home pay. This group represents 10 percent of enterprises employing eight percent of the employees in the enterprise survey. Shipping and port operations, as well as banking and health services were over-represented. There is no category from the 1992 survey that corresponds to this one.

Summary and conclusions

There are many aspects of the changes uncovered by the 1992 survey that have remained relatively the same over the intervening year to the 1993 survey. The increase in enterprise bargaining and the growth of individual contracts are two of the most significant changes to the bargaining process. Changes are, however, concentrated in larger enterprises, with significantly less change in smaller enterprises - 35 percent of employees estimated to be covered by the enterprise survey working in enterprises with between four to nine employees have still not had a contract under the Employment Contracts Act.

Trade unions are less likely to represent employees than they were under the Labour Relations Act, although they were more involved in collective contract negotiations this year than was reported last year.

The surveys once again provide reports of substantial improvements in productivity, although the role of the Act in these reported improvements is not entirely clear. The majority of employers considered that the old award system prevented efficiency improvements. However, despite this, employers generally gave little weight to the Act as a determinant of productivity improvement. Does this response imply rhetoric over the need for change when, in fact, productivity improvements would have occurred anyway? Or is it simply a reflection of the Act being enabling, rather than prescriptive legislation, and the natural tendency for employers to take credit for the improvements in productivity actually achieved by them? Given the number of firms that were "Inactives", there may be a gap between employer perceptions and actual determinants of productivity increases. The question of the exact role of the Act in relation to changes to productivity remains tantalisingly unanswered.

The attitudes of employees were much less positive than those of employers. While 43 percent of employers indicated increased trust of management by employees, only 15 percent of employees thought so. Large differences could also be seen in responses to questions about job security, workplace communication, cooperation and job satisfaction. More employees oppose the Employment Contracts Act than support it, though the number opposing the Act has declined compared with the 1992 survey. There are a number of employees and employers that would like to see changes to the Act, such as the provision of guidelines on negotiation.

Both employers and employees still believe that employers are presently in a stronger bargaining position. The vast majority of employees, however, were still satisfied with their contract outcomes. The contradiction between employee satisfaction with contract outcomes

and employee attitudes to and opinions of the Act remains.

Negotiating power is acknowledged by employers and employees as important under the Employment Contracts Act, and employers are seen to have more of that power. There are indications that the balance of negotiating power of employers and employees in particular industries or sectors may have shifted slightly or be about to shift slightly, perhaps due to expected future recruitment difficulties.

There are still three broad categories of employer. These categories are: those who have done nothing; those who have in the short-term cut labour costs and union rights; and those who appear to have taken a strategic approach involving improved performance measures aimed at enhancing workplace productivity and employee co-operation.

There are clear signs that there are differential results for men and women employees under the Act¹⁴. Women are less likely to have had basic pay or take-home pay increases, or have achieved less tangible results such as an increase in job satisfaction. Generally the same can be said of the public sector compared with the private sector.

The contrast between men and women is, however, likely to be a reflection of the different positions held generally by men and women in the labour market. Women are more likely to be in positions that are not full-time, that are not seen as skilled and be working in the public sector. The survey does not provide proof that the Act is the cause of the differential effects. It does, however, provide further evidence of the existence of developing differential effects from negotiations in the labour market.

With the deregulation of the labour market to allow greater choice to the participants in the negotiation of terms and conditions of employment there can now be seen to be developing differential effects on different segments of the market. The different results in the survey for men and women are a reflection of this. There is need for further research to establish the relationship between the Act and the differential effects, and also the position of those employees who are doing less well under the Act. Continuing differentiation between groups could have important long-term effects for the labour market and a wide range of social policy issues.

¹⁴ As well as the evidence of Hammond and Harbridge (*ibid*) there is information in relation to the supermarket and retailing (non-food) sectors of the economy on the bargaining effects of the Employment Contracts Act in: Pringle (1993); and Hector, Henning and Hubble (1993). These studies point to competitive pressures to reduce wages and conditions in sectors where most employees are women. Harbridge (1993), conducted a survey for the Service Workers Union of women members using the same questions as the 1992 Heylen survey on contract content and working conditions. In the survey, 30 percent of respondents reported a decline in take home pay (20 percent reported an increase, largely attributable to increased hours of work rather than increases in pay rates).

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